

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/541,246 Confirmation No.: 5820

Applicant(s) : Mark L. Lawrence

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TC/A.U. : 1645

Examiner : Albert Mark Navarro

Docket No. : 028186.61646

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

DECLARATION UNDER 37 C.F.R. §1.131

Commissioner:

I, Mark L. Lawrence, do hereby declare the following:

- (1) I am the named inventor of the subject matter of the above-identified patent application.
- (2) In the Office Action, claims 1-5, 9-12, 21-25, 35-38, and 41-43 were rejected under 25 U.S.C. §102(a) & (e) as anticipated, or in the alternative, under 35 U.S.C. 103(a) as being obvious over Mahan et al. (US Application Number 2002/0068068 with a filing date of August 9, 2001) in light of May et al.
- (3) The subject matter of all claims of the present application was invented before the effective date of Mahan. The claimed invention was conceived in this country prior to July 27, 1999.
- (4) Evidence of conception prior to the date of the Mahan reference is shown in Exhibit A, attached hereto. Exhibit A consists of laboratory notebook entries that were entered by me or members of my lab as of the date shown.
- (5) As can be seen from the pages of the attachment, the invention was clearly conceived of prior to the filing date of Mahan. These pages show an altered *dam* gene in *Pasterurella multocida*.

- (6) The conception of the invention as claimed was coupled with diligence to the filing of the provisional applications US Serial No. 60/439,790 and 60/439,796 on January 14, 2003.
- (7) Evidence of diligence throughout this period is also illustrated in Exhibit A. The pages are just a small sampling of pages that have been selected from the laboratory notebooks to show that we were diligent in reducing the invention to practice. As evidenced by the entries, I was diligent throughout the period from prior to the priority date of Mahan to the filing date of the provisional application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.



Mark L. Lawrence

Date: 5/28/10